

# Committee of Thirteen Report

October 04, 2007

The Committee of Thirteen of the Benton County Quorum Court met Thursday, October 4, 2007 at 6:00 P.M. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

10 JPs Present:	Brown, Harrison, Hill, Hobbs, Hubbard, Moore, Stephenson, Summers, Winscott, Wolf
3 Absent:	Glass, Schindler, Wozniak
Others Present:	County Judge Gary Black, Sheriff Keith Ferguson, County Attorney Robin Green, Richard McComas, Dennis Cottrell, Chief Don Townsend, Major Gene Drake, Captain Hunter Petray, Barbara Ludwig, Mike McGinnis
Media:	Jennifer Turner – Daily Record, Scarlet Simms – Morning News, Amanda O’Toole—Arkansas Democrat Gazette

Chair Tim Summers called the meeting to order.

## **PUBLIC COMMENTS:**

Don Day commented on meeting times and spoke in opposition to the rehabilitation of the St. Mary’s hospital for a Juvenile Detention Center.

## **NEW BUSINESS:**

### **1. St. Mary’s Hospital Building – Power Point Presentation and Discussion**

JP Winscott presented information on the physical condition of the St. Mary’s Hospital building. He reported that the difficulty in sealing the varying elevations of the roof poses potential leaking problems, and will require extra effort to keep dry. He showed pictures of the different areas of the roof that were built during various phases of construction from 1964 through 1995. He showed several areas where air pockets have formed because the material has not remained sealed. He said that flat roofs are difficult to drain, but are cheaper to build.

JP Moore asked if anyone knew how much it costs per square foot to replace a flat roof. JP Summers stated that they have received estimates for up to \$270,000 to replace the 75,000 square foot roof at Decision Point. It was noted that the roof is approximately 100,000 square feet. JP Wolf asked if any of the roofs were fairly new. JP Winscott explained that the vestibule roof at the main entrance leaks every time it rains, and the maintenance crew cannot fix it because of the poor architectural design.

JP Winscott showed an aerial photo which was labeled to indicate the different phases of construction in 1964, 1985, and 1994. He said that the 1985 addition was developed by Crafton & Tull Associates, and he contacted a project manager to get background information on the

building, and was told by their representative that no one, including the maintenance staff, knows the building as well as they do. He stated after visiting with the people at Crafton & Tull, he could not find any reason to discount them from bidding on the rehabilitation work on the hospital, although the Quorum Court was told that there was only one organization that was qualified to do the work, and that was the company that received the feasibility project for \$15,000. He listed several projects that Crafton & Tull has built, and stated that with all of their expertise, he does not know why they were not included in this project, or why they are not using their knowledge base. JP Moore stated that they had the same opportunity to bid on the project that everyone else had, and the county only received the two bids—one from Hight-Jackson and the one from SouthBuild in Memphis. JP Winscott stated that he posed the question to the Crafton & Tull representative if they would be willing to sign a contract which gave ownership of the plans to Benton County, and he was told that they would, as long as their legal department approved it.

JP Winscott stated that the hospital has three generators,—one 105 kilowatt which is dedicated to emergency elevator operation to operate the freight elevator for transporting patients from floor to floor, one 200 kilowatt and one 300. He showed pictures of the electrical panel, and noted that there is no standard that has been used for electrical components; they are all from varying manufacturers, which makes it difficult to maintain and keep replacement parts in stock.

JP Winscott discussed the three boilers in the hospital—two 125 horsepower, and one 250 horsepower, and stated there is no way to inspect them while they are in operation. He said that the boiler tubes sometimes have to be replaced, which can take up to two weeks and can typically be done in the summer months when the demand is low. He said that he did not see anything in the equipment room that was alarming. JP Hill asked if the boilers were bricked. JP Winscott stated that in his experience, boilers of this type are always metal with pressure welds. He said the hospital employs 12 certified boiler operators to maintain the 24/7 operation 365 days a year. He said that he asked the Maintenance Superintendent how many people would be required to keep the building operational, and was told that they would need 9 full-time employees in addition to a supervisor and a mechanic.

JP Winscott discussed the chill water system which provides cooling for the building. He said this is a Freon system which operates at a lower pressure than an ammonia system, although you have to be careful to watch for leaks. He said it is a current system, and is an acceptable standard in commercial buildings. JP Winscott stated some of the building's operations are computerized, but he did not get much detailed information on them.

JP Winscott showed an aerial photo of the county property on Highway 102, with the Health Department, Road Department, and the Sheriff's Department and Jail outlined. He noted that if the Road Department is removed, there is plenty of room to expand the Jail. He said that it has been stated that it is difficult to access 102, but the State Highway Department is in the process of widening it, and it would be possible to build an access road to a traffic signal to service the entire complex. He said the property seems to be a natural solution for expanding the facilities that are needed, and it could hold a new Juvenile Detention Center, and the problem of transporting prisoners to court proceedings could be solved if a court complex were built on the property. He said that facilities should be designed and built to fulfill a need, and it gets to be extremely burdensome when you start separating departments and moving them around. He said that the decisions they make will impact the county budget for years and years to come, long after they are no longer on the court. He said that the initial cost of building a new facility is

greater, but it is efficient and the long term operational costs are not as great as they will be if they renovate a building which does not operate efficiently.

JDC Director Dennis Cottrell distributed information on the JDC's 5- and 10-year growth projections. He said that he also wanted to clarify some information that was reported in the newspaper following the St. Vincent-DePaul Church meeting. He said according to his research, from January 1 through September 30 of 2007, there have been 11 kids housed in the JDC who were classified as sexual offenders. He also stated that in May of 2006, Gary Ryle of Hight-Jackson Architects gave a presentation stating that a new facility would cost between \$240 and \$250 per square foot, for a total of \$8 to \$9 million, plus whatever cost they incurred for a court system and probation offices, which is where the \$18 million figure came from that has been quoted recently. He said that \$250 per square foot is also the initial estimate they received from SouthBuild of Memphis during their presentation.

Dennis Cottrell stated that JP Winscott touched on one of his own concerns about the hospital building, which is that due to its design, over time it will be a much more labor intensive building. He said he is not concerned about the safety and security of the juveniles, because he believes it can be accomplished, and he appreciates the fact that he has not been under any pressure to compromise any of those security elements. He said that the possibility of not eventually being able to relocate the Juvenile Court system to the hospital site concerns him, because that will make the building very labor intensive. He said if it was only a temporary problem, they could deal with it, but if it is permanent, he would hate to break up a system which is now very cost efficient. He noted that a newly-designed facility would be more cost efficient and less labor intensive.

Dennis Cottrell stated that he also wanted to address a concern that has been raised about how the JDC would affect the Rogers School system if it were to be relocated to the hospital building. He said the effect would not be any different than it is now on the Bentonville School system, as the JDC's benchmark scores are exempt from the district's scores.

Dennis Cottrell discussed the handouts, noting that beginning in 2002 and looking at the growth in 5-year increments, the number of intakes has increased by 41%. He said they will be at 1054 intakes by the end of 2007 and if they continue the same rate of increase, they will have had 1786 intakes by the end of 2012. He said they are currently averaging 17 intakes per day, which is the capacity of the current facility.

Dennis Cottrell stated that the second page of the report illustrates 3 different areas they are trying to address. He said that nationwide, Juvenile Detention Centers operate at almost a 1 to 1 staff to juvenile ratio. He said renovating the hospital will require more staff, so the front end cost will be higher than a new facility, which can be designed to operate less labor intensively. He said it is up to them to determine the difference in those costs stretched out over the next 20 years.

JP Winscott asked what factors could cause the projections to be off. Dennis Cottrell stated that there are several, such as, the average length of stay in Benton County's facility is 7 days, while the average length of stay in Hot Spring's facility is 21 days. He explained that each Juvenile Court and Probation Office determine the length of stay based on their own philosophies, and while Benton County currently has one of the lowest average length of stays, if that philosophy changes, the projections could increase significantly. He said it is the philosophy of our system not to use Juvenile Detention frivolously, but to get the kids out and into some sort of treatment

or graduated sanctions. He said he could not see the number of intakes decreasing significantly unless the population decreased dramatically, so these numbers are conservative, as long as the population growth in the county continues.

JP Wolf asked Dennis Cottrell if his preference would be to not be placed in Rogers without the rest of the Juvenile system. Dennis Cottrell stated that they would make do with whatever the court decides, but if he was asked if he would prefer a new facility, he would honestly have to say yes, if they could afford it, because it would be more efficient. JP Wolf asked if they would need more than one floor of the hospital to accommodate the projected number of beds that will be needed. Dennis Cottrell stated that the 3<sup>rd</sup> floor is large enough to handle the expansion to a 57- bed facility, which would be done in phases. He added that if they build from scratch, he would ask them to consider a 60-bed facility. JP Wolf noted that according to the projections, it would be out dated in 2012. Dennis Cottrell stated that if the county's population continues to increase at its current rate, that is correct, but there is a point where they cannot afford anything larger. He cited two 34-bed facilities in Texas and Iowa which are both in the process of adding an additional 34 beds because they were designed and built with the capacity to expand. He said he would not recommend going much below 60 beds, because they will be facing the exact problems again in a very short time.

JP Wolf asked County Attorney Robin Green if they could safely move the court to the Highway 102 property if they decide to build a new JDC there. Robin Green stated that it would still be in the county seat, so she believed court could be held there. She said that she has spoken with Washington County Attorney George Butler, who has researched that question because their Juvenile Court and Detention Center are located approximately 2 miles from the Washington County Courthouse, and while there is still a slight grey area, it is not nearly the question that is associated with holding Circuit Court outside of the county seat, and they would probably be safe. JP Wolf asked if the courtroom that is currently used for arraignments at the Jail is legal. Robin Green stated that it is legal, but would not be feasible for use as a Circuit Court. She further explained that it is not used for arraignments, but for probable cause hearings, the standards for which are very lenient.

JP Moore asked Dennis Cottrell if they could expect to have to double the size of the JDC every 10 years. Dennis Cottrell stated that is the way the trend is continuing, but his area of expertise is not doing feasibility studies. JP Moore stated that it would be safe to assume that in 15 years, they will outgrow the floor of the hospital. Dennis Cottrell stated that was correct, but circumstances could alter the trend either way.

JP Winscott stated that he was impressed to learn at the Personnel Committee meeting that the JDC has not increased staff since it opened in April of 2001, which indicates to him that it has been operated very efficiently.

## **2. Jail Expansion – Sheriff Keith Ferguson**

JP Moore recognized Sheriff Keith Ferguson, who stated that it is difficult to formulate a long range plan for the Sheriff's Office, because there is no guarantee that he will still be in office in two years. He said a new sheriff will be determined to set his own goals and priorities, so if he were to set out a long range plan at this time, it is almost a certainty that it will not be followed. He said that the Jail is his priority, and it was built with the capability to expand with the addition of another pod. He said that Washington and Sebastian Counties have built additional facilities to handle their overflow, and he is proposing that Benton County do the same. He said that they

have received a donation of an 80 by 160 foot red iron building, which can still be used as an overflow facility if they eventually are able to build another pod onto the existing Jail. He noted that they have all received the informational packet that has been prepared, and stated that he believes they can construct the building for \$ 1 million, and use it for non-violent offenders, women, and work release inmates. He said it will address their immediate needs and provide another 2 to 3 years to plan for an expansion to the current Jail. He said they might also be able to reserve a section for the occasions when they have to hold a juvenile. He said he does not think they will need more than 8 or 12 additional people to run the facility, perhaps less.

JP Hobbs asked why the JDC could not use a similar type of building. Dennis Cottrell stated that if the architectural concerns were addressed, and the physical requirements of the interior were met, which are more stringent than those of an adult facility, he did not know if it would be possible or not. JP Moore asked Dennis Cottrell to explore the possibility.

### **3. Long Range Planning – JP Kurt Moore**

JP Moore stated that the County Judge has provided them a report outlining the space and personnel needs of each of the departments that are possible occupants of the hospital building. He said that in addition, he has prepared a report showing county funding priorities according to state statutes, along with the county's needs in the appropriate categories. He listed the priorities according to the statutes, starting with the administration of justice through the courts, which in his opinion means that their number one priority is a courtroom space for the new judge who will be starting in January of 2009. He said that they are less than 15 months away from the new judge taking the bench, so they need to be seriously looking for space. He said the St. Mary's location is not suitable, according to the legal opinion of the County Attorney, and he has no reason to doubt that opinion. He said that the Long Range Planning/Properties & Equipment Committee has toured various locations that are available for lease around the downtown area, and nothing has been suitable. He said that there might be something suitable a little farther away from the square, similar to the space that was located for the Election Commission, but they need to get moving on it soon.

He said the second priority is law enforcement, and custody of people convicted of crimes, which would include the Juvenile Detention Center, Probation, and the Jail, and following those are the functions of tax collection, which have been addressed. He said the next priority is the keeping of court records, and those are also in fairly good shape, although the Circuit Clerk will need additional staff when the new judge starts in 2009. He said that final item on the list of things that "shall" be funded are all other functions of the duties of the Elected Officials and Departments. JP Moore read the remainder of the statute, noting that roads and bridges are quite a way down the list of things that "may" be funded. He explained that the Long Range Planning/Properties & Equipment Committee has tried to prioritize by placing items that are in the "shall" category ahead of the items that are in the "may" category.

JP Summers stated that there is probably enough money in the Capital Reserve Account to do the building and the courtroom, but the Capital Requests this year exceed the amount of Revenue, and there is no way they can increase the millage enough to pay for any great expenditure, and it will be difficult to add positions and give salary increases. He said that they also need to keep in mind that in 2010 the new census figures will further reduce the county's share of the sales tax revenue, perhaps as much as \$4 million. He said that in order to meet anything other than

minimal needs they will need an additional revenue stream, or they may have to significantly curtail services.

JP Moore stated that the voters overwhelmingly rejected a proposal to build a justice complex in 1993, and after that, approved the sales tax to build only the Jail. JP Hobbs stated that it is 14 years later, and in 1993 it may have been hard for people to comprehend the growth that has now taken place. She said that a 1/8% sales tax would generate \$3.5 to \$4 million per year, and although she does not like taxes, she thinks that if the people see other departments doing what the Sheriff has done to save money; they would support it, especially the group that attended the St. Vincent's public meeting earlier in the week. She added that it is something that they need to consider, because moving all of the courts from the Courthouse would free up additional office space for other departments. She said that inmates lined up on the sidewalks is not something they need in the beautiful downtown area, especially with the Crystal Bridges Museum coming to the area, and it would solve the transportation problems as well.

JP Winscott stated that although he hates taxes; the only solution he sees is to increase the millage. He said that the needs in all of the areas they have discussed should be communicated very clearly to their constituents, because the jail can only hold so many people, and then they will have to be turned loose on the streets. He said that he would favor putting the courtroom in a temporary facility while something is being built, and the only way he would favor a millage increase is if it is tied to a bond issue, and would be reduced when the bonds are paid off.

County Attorney Robin Green stated that they would probably need to consider a dedicated sales tax rather than a millage increase. Comptroller Richard McComas stated that it would be hard to increase the millage, because they are facing a rollback now at 4.9 mills, and the Road millage is .8 mills away from the maximum allowed, and most of the road millage goes to the cities anyway. JP Winscott stated that he was thinking of sales tax and had merely used the wrong term.

JP Moore distributed the 5-Year Road Improvement Plan which was developed in conjunction with the proposed 1/2-cent sales tax that was defeated in 2006. He said that with the available funds, the projects will take 10 to 15 years to complete. Assistant County Administrator Travis Harp stated that they are about 30% through the 1<sup>st</sup> year of the plan.

JP Moore said they have received aerial photos of the 20-acre parcel on Highway 102 and JoAnn Road that the Road Department would like to relocate to. He said that if they decide to take a court complex proposal to the voters, they will probably need to use the current site for part of that project. He added that the Road Department needs to be in a location that has less traffic because of the difficulty in moving heavy equipment in and out of the facility, and this parcel is perfect for their needs. He said that he would recommend that they go ahead and purchase the land and hold onto it, because it might not be available in the future, and if they decide to build a justice complex on the present Highway 102 location, they will have someplace to put the Road Department. Assistant County Administrator Travis Harp stated that if they purchase this property, they will not need to put in a satellite facility on the west or southwest area of the county, but would probably go ahead with the one on the east side. JP Moore stated that if they did not use it in the future, they would not lose money, because they can always sell it for at least what they paid for it, and probably more. JP Harrison stated that the land could be an investment even if it is not used, because it will not go down in value, but the Road Department definitely needs a facility. JP Stephenson stated that there is no urgency in purchasing the land, because there is plenty of land available, and they first need to decide what they are going to do with the

present property on Highway 102, because land can go down in value, and they can get 20 acres anywhere in the county anytime they want it.

JP Hobbs asked how many acres the county owns on Highway 102. Assistant County Administrator Travis Harp stated that the Road Department sits on 20 acres not including the Health Department, and there is an additional 7.5 acres west of the tree line. JP Hubbard stated that he agreed with JP Stephenson. JP Wincott stated that he wants to see a 10 year growth plan including the needs in square footage and personnel. JP Moore stated that it is hard for elected officials to make those plans when they may not be in office in two years. JP Wolf stated that a plan can be put in place, and followed for as long as you are in office, then it becomes a recommendation to anyone else who comes into office. JP Stephenson stated that it does not make sense to him that you cannot plan for more than 2 years. JP Brown stated that a business plan is based on projected growth in revenue, and the county's revenues are in a decline, so at some point they are going to have to cut services if growth continues while revenues decline.

Comptroller Richard McComas was recognized and stated that he has seen plans change in the 20 years he has worked in government, because elected officials come and go, but they are in the business of providing services to the public and meeting their needs based on growth. He said the reality is that they have to do a more reactive type of planning. JP Hubbard stated that they have to have some type of long term projections, without having to be real specific, and even a 2-year comprehensive plan would be a real job. He added that he has seen more of a crisis management type of planning, where people say they have to have something in 2 or 3 months.

JP Hobbs asked County Attorney Robin Green if the voters approved a 1/8-cent sales tax for a specific facility, would that be what they have to stick to. Robin Green stated that was correct. JP Hobbs stated that the previous attempt to get a sales tax approved went down in flames because the people did not believe they were funding needs, but if they stick to the needs she believes they will support it. She added that she recently attended the National Association of Counties Meeting in Richmond, Virginia, and the issue they are discussing here is being talked about all across the nation. She said that when you are dealing with jails, if you build it they will come, so a lot of counties are looking at rehab type programs being offered in the jails, such as the one in Richmond. She said it cost them \$50 per month for each prisoner to participate in a drug rehab program while in jail. She said that the County Attorney has previously told them that 70% of the crimes in Benton County are drug related, and they should be investing their dollars in keeping those from repeating. She said she realizes that it is the Sheriff's call, but they need to encourage whoever the elected official is to look at things like that. She said that if you can rehab a single mom, you get a return of 2.3 to 1 on the dollars spent, and they cannot just keep building jails.

JP Wincott stated that businesses do long range plans for the downside too. He said he does not know of any elected official that would not cooperate with them and look at their 10-year history and make a projection for growth for the next 10 years.

#### **OTHER BUSINESS:**

County Attorney Robin Green stated that she has filed a reply brief with the Arkansas Supreme Court in the Road Tax Lawsuit.

She also stated that a County Court case was held concerning the Bentonville Masonic Temple's tax exempt status, and the special County Judge did rule that they were exempt from taxation. She said that after talking with County Assessor Bill Moutray, they have decided not to appeal

the decision. She said it is a question of whether the money should go to the schools, or to a worthy charity, but that is something that the legislature needs to clarify.

JP Hubbard asked County Attorney Robin Green why they started charging property taxes to the VFW this year. Robin Green stated that the Arkansas State Constitution states that the Assessor's must maintain the market value of all properties, and if they do not do their job, the state can come in and take over the office. She said that the Constitution also states that only public properties used for public purposes are exempt, and although the legislature carved out a handful of other exceptions, such as churches, the American Legion, Masonic Temples, and VFWs are not listed as exemptions. She noted that they are not public properties, and are not used for public purposes, but the membership requirement for one of them is service to one's country, so it is a difficult issue. She said that most Assessors in Arkansas had not assessed property taxes on those organizations in the past, but the decision was made to assess taxes on these organizations in Benton County, and they are now dealing with the litigation stemming from this issue. She said that the state legislators are aware of the problem, particularly Representative Donna Hutchinson, and hopefully it will be addressed at the next legislative session. She added that it is not something that the Quorum Court is able to clarify.

**ANNOUNCEMENTS:**

None

**PUBLIC COMMENTS:**

Don Day complimented the Quorum Court on their discussion this evening and said that he appreciated their concern for the taxpayers. He expressed objection to the county funding the entire bill for the War Eagle Bridge Rehabilitation, and said that some of the area municipalities should be asked to share the cost. He said he also objected to unsubstantiated claims published in the Benton County Daily Record regarding the level of support for the nuisance abatement ordinance.

After motion and second the meeting was adjourned at 8:05 p.m.